



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

FEB 10 2014

201419020

Uniform Issue List: 402.08-00

T.E.P. PART I

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Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXX
Plan B = XXXXXXXXXXXXXXXXXXXX
Account C = XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
Bank D = XXXXXXXXXXXXXXXXXXXX
Company E = XXXXXXXXXXXXXXXXXXXX
Amount 1 = XXXXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXXX:

This is in response to your request dated April 5, 2013, as supplemented by correspondence dated June 10, 2013, June 25, 2013, and July 19, 2013, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A represents that he received a distribution from Plan B totaling Amount 1. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) was due to his medical condition, which impaired his ability to manage his financial affairs and accomplish a timely rollover. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A represents that he was employed by Company E and participated in Plan B. On November 2, 2012, Taxpayer A was given an opportunity to take a lump sum

distribution from Plan B. Taxpayer A accepted the offer and received a distribution check in the amount of Amount 1 on December 24, 2012. Taxpayer A intended to rollover the distribution to a traditional IRA but did not have an IRA available at that time and did not know which financial institution should be used. Taxpayer A decided to deposit Amount 1 into Account C at Bank D and decide within the 60-day rollover period to which financial institution he should transfer the rollover distribution.

Taxpayer A has suffered from a number of mental health disorders since 1996 and has been receiving treatment including both therapy and medication. Taxpayer A has submitted medical records including a letter from his physician that document his state of mental health during the period surrounding the distribution which prevented him from completing a timely rollover. Taxpayer A did not discover that he failed to complete the rollover until February 26, 2013 while making an ATM withdrawal. Amount 1 remains in Account C, a non-IRA account, with Bank D.

Based on the facts and representations, a ruling has been requested that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 402(c)(3) of the Code with respect to the distribution of Amount 1.

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(3)(A) states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An individual retirement account (IRA) constitutes one form of eligible retirement plan.

Code Section 402(c)(4) of the Code provides that an eligible rollover distribution shall not include any distribution to the extent the distribution is required under section 401(a)(9).

Section 402(c)(3)(B) of the Code provides, in relevant part, that the Secretary may waive the 60-day requirement under section 402(c) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 402(c)(3)(B) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, (January 27, 2003), provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a

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rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a rollover within the 60-day period was caused by his medical condition which impaired his ability to manage his financial affairs and accomplish a timely rollover.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from Plan B. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1 into a rollover IRA. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Amount 1 into an IRA will be considered a valid rollover contribution within the meaning of section 402(c)(3) of the Code.

This ruling does not authorize the rollover of any amounts that are required to be distributed by section 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact XXXXXXXXXXXX (ID XX-XXXX) at (XXX) XXX-XXXX. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose